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An Act To Protect Maine Residents from Home Fires and Carbon Monoxide

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2464, sub-§2, as amended by PL 1985, c. 190, is repealed and the following enacted in its place:

2. Smoke detectors required. The owner shall properly install, or cause to be properly installed, smoke detectors in accordance with the National Electric Code and the manufacturer's requirements. In existing single-family dwellings, at least one smoke detector, which may be photoelectric, ionization or a combination of both, must be installed in each area within, or giving access to, bedrooms. These smoke detectors may be powered by the electrical service in the dwelling, by battery or by a combination of both. Any smoke detector located within 20 feet of a kitchen or a bathroom containing a tub or shower must be a photoelectric-type smoke detector.

After October 31, 2009, smoke detectors installed in a multifamily building or a newly constructed single-family dwelling must be of the photoelectric-only type and must be powered both by the electrical service in the building or dwelling and by battery.

Sec. 2. 25 MRSA §2464, sub-§6, as enacted by PL 1981, c. 399, §1, is amended to read:

6. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 2, ~~paragraph B,~~ or subsection 9, ~~paragraph A~~ if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least ~~24-hours'~~ 24 hours' actual notice of a defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

Sec. 3. 25 MRSA §2464, sub-§9 is enacted to read:

9. Rental units. In an apartment occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide smoke detectors. The smoke detectors must be in working condition. After notification of any deficiencies by the tenant, the landlord shall repair or replace the smoke detectors. If the landlord did not know and had not been notified of the need to repair or replace a smoke detector, the landlord's failure to repair or replace the smoke detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and

B. The tenant shall keep the smoke detectors in working condition by keeping charged batteries in battery-operated smoke detectors, if possible, by testing the smoke detectors periodically, if possible, and by refraining from permanently disabling the smoke detectors.

Sec. 4. 25 MRSA §2464, sub-§10 is enacted to read:

10. Transfer of dwelling. A person who, after October 31, 2009, transfers by sale or exchange a single-family dwelling or a multiapartment building shall certify to the buyer at the closing of the transaction that the dwelling or each apartment in the building is provided with smoke detectors in accordance with this section. This certification must be signed and dated by the seller.

If the buyer notifies the seller within 10 days by certified mail from the date of conveyance of the dwelling or building that the dwelling or an apartment in the building lacks any smoke detectors or that any smoke detectors are not operable, the seller shall install smoke detectors in compliance with this section within 10 days after notification.

Violation of this subsection does not create a defect in title.

Sec. 5. 25 MRSA §2468 is enacted to read:

§ 2468. Carbon monoxide detectors

1. Definition. "Carbon monoxide detector" means a device with an assembly that incorporates a sensor control component and an alarm notification that detects elevations in carbon monoxide levels and sounds a warning alarm and is approved or listed for the purpose by a nationally recognized independent testing laboratory.

2. Carbon monoxide detectors required. The owner shall install, or cause to be installed, by the manufacturer's requirements at least one approved carbon monoxide detector upon or near the ceiling or floor in each area within, or giving access to, bedrooms in:

A. Each apartment in any building of multifamily occupancy;

B. Any addition to or restoration of an existing single-family dwelling that adds at least one bedroom to the dwelling unit; and

C. Any conversion of a building to a single-family dwelling.

A carbon monoxide detector must be powered both by the electrical service in the building or dwelling and by battery.

3. Multiapartment buildings. In multiapartment buildings more than 3 stories in height, the owner shall install, or cause to be installed, approved carbon monoxide detectors in each corridor and hallway on each floor in addition to the carbon monoxide detectors required under subsection 2.

4. Carbon monoxide detectors for persons with disabilities. Upon the request of a deaf or hard-of-hearing occupant, the owner of a dwelling unit shall provide an approved carbon monoxide detector suitable to warn the occupant within the dwelling unit. If the owner does not provide a suitable carbon monoxide detector, the occupant may purchase, install and maintain a suitable carbon monoxide detector or arrange for proper installation and maintenance of a suitable carbon monoxide detector and may deduct the actual costs from the rent for the dwelling unit. An occupant may not be charged, evicted or penalized in any way for failure to pay the actual costs deducted from the rent for the dwelling unit.

5. New construction. A person who constructs a single-family dwelling shall install at least one carbon monoxide detector upon or near the ceiling or floor in each area within, or giving access to, any bedroom in the dwelling. The carbon monoxide detector must be powered both by the electrical service in the dwelling and by battery.

6. Rental units. In an apartment occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide carbon monoxide detectors. The carbon monoxide detectors must be in working condition. After notification of any deficiencies by the tenant, the landlord shall repair or replace the carbon monoxide detectors. If the landlord did not know and had not been notified of the need to repair or replace a carbon monoxide detector, the landlord's failure to repair or replace the carbon monoxide detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and

B. The tenant shall keep the carbon monoxide detectors in working condition by keeping charged batteries in battery-operated carbon monoxide detectors, if possible, by testing the carbon monoxide detectors periodically, if possible, and by refraining from permanently disabling the carbon monoxide detectors.

7. Transfer of dwelling. A person who transfers by sale or exchange a single-family dwelling or a multiapartment building shall certify to the buyer at the closing of the transaction that the dwelling or each apartment in the building is provided with at least one carbon monoxide detector in accordance with this section. This certification must be signed and dated by the seller.

If the buyer notifies the seller within 10 days by certified mail from the date of conveyance of the dwelling or building that the dwelling or an apartment in the building lacks a carbon monoxide detector or that the carbon monoxide detector is not operable, the seller shall install a carbon monoxide detector in compliance with this section within 10 days after notification.

Violation of this paragraph does not create a defect in title.

8. Rules. The Commissioner of Public Safety or the commissioner's designee, in accordance with the Maine Administrative Procedure Act, shall adopt rules pertaining to carbon monoxide detectors. The rules adopted must include, but are not limited to, standards for approved carbon monoxide detectors and all requirements of use, maintenance and installation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

9. Penalties. A person who violates this section is guilty of a civil violation and is subject to a fine of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 10 days of the issuance of a complaint.

10. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 2, paragraph A or subsection 6, paragraph A if the owner has conducted an inspection of the required carbon monoxide detectors immediately after installation and has reinspected the carbon monoxide detectors prior to occupancy by each new tenant, unless the owner has been given at least 24 hours' actual notice of a defect or failure of the carbon monoxide detector to operate properly and has failed to take action to correct the defect or failure.

11. Noninterference. A person may not knowingly interfere with or make inoperative any carbon monoxide detector required by this section, except that the owner or the agent of an owner of a building may temporarily disconnect a carbon monoxide detector in a dwelling unit or common area only for construction or rehabilitation activities when such activities are likely to activate the carbon monoxide detector or make it inactive. The carbon monoxide detector must be immediately reconnected at the cessation of construction or rehabilitation activities each day, regardless of the intent to return to construction or rehabilitation activities on succeeding days.

SUMMARY

This bill requires that all single-family dwellings and multiapartment buildings sold in the State and newly constructed single-family dwellings have photoelectric-only-type smoke detectors and at least one carbon monoxide detector in an area within or giving access to a bedroom. The detectors in multifamily dwellings and newly constructed single-family dwellings must be powered by both the electrical service in the building and by battery.